



---

# **Le Sueur County, MN**

**Thursday, November 16, 2017**

**Regular Session**

## **Item 2**

### **Miller Packet**

Staff Contact: Kathy Brockway or Michelle Mettler

# VARIANCE STAFF REPORT

## GENERAL INFORMATION

**APPLICANT/OWNER:** Dennis Miller

**911 ADDRESS:** 46179 Jefferson Lake Drive, Cleveland, MN

**VARIANCE REQUEST:** To use an existing septic tank 6 feet from the detached garage; install a septic drainfield 17 feet from the dwelling, 13 feet from the detached garage, and 57 feet from Ordinary High Water Level (OHWL).

**VARIANCE NUMBER:** 17394

**PARCEL NUMBER:** 01.600.0070

## SITE INFORMATION

**LOCATION:** Lots 6 & 7, Jefferson Highlands, Section 2, Cleveland Township

**ZONING & PURPOSE:** Recreational Residential

The intent of the **Recreational Residential (RR) District** is to preserve areas which have natural characteristics suitable for both passive and active recreational usage. Also, it is the intent of this district to manage areas suitable for residential development of varying types, including permanent and seasonal housing. Some non-residential uses with minimal impacts on residential uses are allowed if properly managed under conditional use procedures.

**GOALS AND POLICIES:** The current Land Use Plan as adopted in 2007 does make reference to water quality.

**GOAL #3:** Improve water quality in Le Sueur County.

**Objective 1:** The County will undertake actions to help protect groundwater as well as surface water features.

**Action 2:** The County will take leadership in initiating a wastewater or septic replacement program.

**Strategy #2:** a. Septic replacement program in areas with space to accommodate this type of improvement program.

**GENERAL SITE DESCRIPTION:** Shoreland, residential

**ACCESS:** Existing off Jefferson Lake Drive

**LAKE:** Lake Jefferson, Recreational Development Lake

**Recreational Development Lake** - Lakes that usually have between sixty (60) and two hundred twenty five (225) acres of water per mile of shoreline, between three (3) and twenty five (25) dwellings per mile of shoreline, and are more than fifteen (15) feet deep.

**RFPE:** na

## ATTACHMENTS

Application, Written Detail of Request, Survey, Surveyor Certification, Aerial photo, Findings of Fact,

## STAFF FINDINGS

Staff findings per Le Sueur County Ordinance, the following findings have been developed for this request:

- | 1. <u>Variance:</u>                 | <u>Request:</u> | <u>Required:</u> | <u>Ordinance:</u>                  | <u>Page:</u> |
|-------------------------------------|-----------------|------------------|------------------------------------|--------------|
| a. Septic tank to detached garage:  | 6 feet          | 10 feet          | Section 17. Subdiv. 4. D. 1. b.    | 17-9         |
| b. Septic drainfield to dwelling:   | 17 feet         | 20 feet          | Section 17. Subdiv. 4. D. 1. a.    | 17-9         |
| c. Septic drainfield to det garage: | 13 feet         | 20 feet          | Section 17. Subdiv. 4. D. 1. a.    | 17-9         |
| d. Septic drainfield to OHWL:       | 57 feet         | 75 feet          | Section 17. Subdiv. 4. D. 5. b. 2. | 17-9         |
2. **Refer to DNR Guidance Letters:**
- a. The Role of the Variances in Shoreland Management Ordinances pg. 9
- b. Non-conforming Lots of Record in Shoreland Areas pg. 19
3. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official controls and are consistent with the comprehensive plan.
4. A Variance may be granted **only** where the strict enforcement of the official controls will result in a **practical difficulty**.
5. It is the responsibility of the **applicant** and/or landowner to prove evidence that a practical difficulty exists.
6. A determination that a **practical difficulty exists** upon the consideration of the **findings of fact**.

## CONSIDERATIONS

1. The following shall be considered at the hearing:
- a. There are special circumstances or conditions affecting the land, structures or use referred to in the Variance.
- b. The granting of the application will not be a detriment to the public health, safety, and general welfare or injurious to property or improvements in the area adjacent to the property of the applicant/landowner.
- c. Consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.
2. **Additional Considerations:**
- a. Property is located within the German/Jefferson Sewer District. Installation deadline 12-31-17.

## CONDITIONS

1. In granting any Variance, the Board of Adjustment may designate such conditions in connection that will secure substantially the objectives of the Ordinance, regulation or provision to which the application is granted.
2. Conditions must be directly related to and bear a rough proportionally to the impact created by the Variance.
3. *If approved*, construction must be completed **prior to the Variance expiration**, Section 22; Subdivision 7.
4. *If approved*, a **zoning permit** must be purchased prior to starting construction, Section 26.
5. **Extension** must be requested 30 days prior to Variance expiration, Section 22; Subdivision 7.



# VARIANCE FINDINGS OF FACT

Name of Applicant: DENNIS MILLER

Variance # 17394

**Variance Request:** TO ALLOW THE APPLICANT TO USE AN EXISTING SEPTIC TANK 6 FEET FROM THE DETACHED GARAGE; INSTALL A SEPTIC DRAINFIELD 17 FEET FROM THE DWELLING, 13 FEET FROM THE DETACHED GARAGE, 57 FEET FROM THE OHWL.

- A. No Variance may be granted that would allow any use that is prohibited in the Zoning District in which the subject property is located.
- B. Facts supporting the answer to each question must be documented below, and are hereby certified to be the Findings of Fact of the Board of Adjustment.
- C. A Variance may be granted only where the strict enforcement of the official control will result in a practical difficulty.
- D. It is the responsibility of the applicant / landowner to prove evidence that a practical difficulty exists.
- E. A determination that a practical difficulty exists upon the consideration of the following criteria.

Y N 1. Does the property owner propose to use the property in reasonable manner?

Explain \_\_\_\_\_

JM	JW	JD	CH	FC
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Y N 2. Is the alleged practical difficulty unique to the property?

Explain \_\_\_\_\_

JM	JW	JD	CH	FC
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Y N 3. Were the circumstances causing the practical difficulty created by someone other than the applicant / landowner?

Explain \_\_\_\_\_

JM	JW	JD	CH	FC
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Y N 4. Will the issuance of the Variance maintain the essential character of the locality?

Explain \_\_\_\_\_

JM	JW	JD	CH	FC
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Y N 5. Does the alleged practical difficulty involve more than economic considerations?

Explain \_\_\_\_\_

JM	JW	JD	CH	FC
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

F. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official controls.

Y N 6. Is the Variance consistent with and supported by the statement of purposes, policies, goal and objectives in the Ordinance?

Explain \_\_\_\_\_

JM	JW	JD	CH	FC
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Y N 7. Is the Variance consistent with the Comprehensive Plan?

Explain \_\_\_\_\_

JM	JW	JD	CH	FC
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

G. IF ALL THE ANSWERS ARE "YES", THE CRITERIA FOR GRANTING THE VARIANCE HAVE BEEN MET.

( ) APPROVED

( ) DENIED

CONDITIONS:

Applicant response to conditions:

Agree ( )

Disagree ( )

Reasons:

Board of Adjustment Chairman

Date

## Variance Application

### I. Applicant:

Name Dennis Miller  
 Mailing Address 46179 Jefferson Lake Dr  
 City Cleveland State MN Zip 56017  
 Phone # 507-931-6833 Phone # 507-245-4226 M-F 8-4

### II. Landowner:

Name Dennis Miller  
 Property Address 46179 Jefferson Lake Driv  
 City Cleveland State MN Zip 56017  
 Phone # 507-931-6833 Phone # 507-245-4226 M-F 8-4

### III. Parcel Information:

Parcel Number 01.600.0070 Parcel Acreage \_\_\_\_\_  
 Township Cleveland Section ~~32~~ 2  
 Subdivision Jefferson Highlands Lot 6+7 Block \_\_\_\_\_

Full Legal Description must be attached.

(Full legal description can be found on deed, not abbreviated legal description from tax statement).

### IV. Variance Request: List requested alternative to development standard(s).

Setback from drainfield to house, garage,  
Property line, Lake and tank to garage

### V. Description of Request:

a. A full written description of the proposed variance request with detailed information must be attached.

### VI. Township Notification:

Township must be notified prior to application. (County Commissioners are not the Township Board.)

Cleveland Township notified on 10-15-2017  
 (Township Name) (Date)

Board Member Susan Fly regarding the proposed request.  
 (Name)

### VII. Site Plan - Shall be a Certificate of Survey to include, but not limited to:

- North point
- Setbacks
- Property lines
- Road Right-Of-Way
- Lot Dimensions
- Lakes
- Rivers
- Wetlands
- Streams
- Ponds
- Well
- Septic System
- Proposed Structures
- Existing structures - *Within and adjacent to project area.*
- Location of trees to be removed - *Shoreland Districts.*
- Access
- Easements

#### • Impervious Surface

- Required for *Shoreland, Business, & Industrial Districts.*
- Itemized current & proposed impervious surfaces to include total percentages.
- Examples include but are not limited to: *rooftops, sidewalks, patios, decks, driveways, parking lots, storage areas and concrete, asphalt, or gravel roads, or tightly compacted soils.*

\*Site shall be physically staked, *then* surveyed.

\*Stakes shall be in place at the time of onsite visit/meeting, or the application will be tabled.

\*Stakes must remain in place until construction commences.





## VIII. Practical Difficulty:

- a. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official controls and are consistent with the comprehensive plan.
- b. A Variance may be granted only where the strict enforcement of the official control will result in a practical difficulty.
- c. It is the responsibility of the applicant and/or landowner to prove evidence that a practical difficulty exists.
- d. A determination that a practical difficulty exists upon the consideration of the following criteria:

1. Describe how the Variance request is reasonable compared to the ordinance requirements being varied from.

*Deviation from written setbacks is not enough to cause environmental or health issues.*

2. What are the unique circumstances of this property that prevent compliance with the Zoning Ordinance that will result in a practical difficulty?

*Years ago lots were plotted very small.*

3. Describe how the unique circumstances causing the practical difficulty were created by someone other than the applicant/landowner.

*Years ago lots were plotted small.*

4. How will the request maintain the essential character of the locality?

*All neighboring properties have similar mounds.*

5. Does the alleged practical difficulty involve more than economic considerations?

*Yes, having to pump is not only expensive but also inconvenient and stressful.*

6. Is the request consistent with and supported by the statement of purposes, policies, goals and objectives in the Ordinance?

*Yes, deviation from written setbacks is not enough to cause environmental or health issues.*

7. Describe how the request is consistent with the Comprehensive Land Use Plan.

*Many lakefront property owners are faced with sewage treatment on minimal land parcels.*

8. Describe the properties current, and any proposed, onsite sewage treatment and water capabilities.

*Currently nonconforming on leased land. New drainfield will be conforming on owners land.*

9. Explain why this request is the minimum variance amount to afford relief.

*No other options but to fit drainfield on small lot.*

IX. Attachments shall include but not limited to:

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> a. Site Plan- <i>survey</i> | <input type="checkbox"/> e. Floor plans and/or blue prints ( <i>For structures</i> )     |
| <input checked="" type="checkbox"/> b. Surveyor Certification   | <input checked="" type="checkbox"/> f. Septic System Compliance Inspection <i>Design</i> |
| <input type="checkbox"/> c. Access approval                     | <input checked="" type="checkbox"/> g. Erosion control plan                              |
| <input type="checkbox"/> d. Full legal description              | <input checked="" type="checkbox"/> h. Description of request                            |

*The Department may request additional information regarding the application.*

X. Quantities and Submittal Formats:

- One (1) reproducible copy of the request and all other supporting documents.
- Ten (10)** copies must be submitted for documents larger than 11 x 17, documents in color, aerials or photographs.
- Electronic version of any supporting documents if available.
- Additional copies may be requested as deemed necessary by the Department.

XI. Fees:

Variance:	\$ 600
Filing Fee:	\$ 46
Variance for Clusters:	\$ 600 + \$200 per household
Filing Fee:	\$ 46

**Additional Fees:**

Special Meeting:	\$1,200
After-The-Fact meeting fee:	<u>Doubled</u> + After-The-Fact Penalty.
After-The-Fact Penalty:	\$1,500 OR 10% of the improvement, whichever is greater.

***Fees must be paid at the time of application, cannot be accepted by mail, and are non-refundable. Cash or check. Credit cards will not be accepted.***

XII. Procedure: See Section 22 of the Zoning Ordinance for full details.

- Pre-application meeting is recommended prior to making application to ensure submittal completion. **Appointment is necessary.**
- Application must be made in person by the applicant and/or landowner prior to 12 P.M. on the date of application deadline. **Appointment is necessary.**
- All required information must be correct and submitted **at the time of application.** or the application will not be accepted.
- Fees **will not** be accepted by mail and must be paid at the time of application.
- Notification will be sent to all landowners within 500 feet of the affected property, (minimum of 10 landowners) as well as the affected Town Board, any municipality within 2 miles, and other applicable agencies.
- Notice will be published in the newspaper of general circulation in the area concerned and the official newspaper of the County.



meeting. Any conversation with the Board of Adjustment during the onsite visit is prohibited.

- h. The Board of Adjustment shall hold a public hearing on the proposed Variance at a scheduled Board of Adjustment meeting.
- i. The applicant or representative must appear before the Board of Adjustment in order to answer questions concerning the request, or the application will be tabled.
- j. The Board of Adjustment has the authority to request additional information or designate conditions.
- k. The Board of Adjustment has the authority to determine Variance approval or denial. No Variance may be granted that allow any use that is prohibited in the Zoning District in which the property is located.
- l. The Department shall notify the applicant and/or landowner in writing of the Board of Adjustment decision.
- m. The Department will file a certified copy of any order or decision issued by the Board of Adjustment with the County Recorder.
- n. A zoning permit is required prior to starting construction however zoning permits will not be available the day of the Board of Adjustment meeting. Zoning permit application must be approved prior to obtaining a zoning permit.

### XIII. Signatures:

*I hereby certify with my signature that all data contained herein as well as all supporting data are true and correct to the best of my knowledge.*

Dennis O'Malley  
Applicant signature

10-16-17  
Date

*I hereby certify with my signature that all data contained herein as well as all supporting data are true and correct to the best of my knowledge.*

Dennis O'Malley  
Landowner signature

10-16-17  
Date

#### OFFICE USE ONLY

Date received <u>10-16-17</u>	Present Zoning Classification <u>RA</u>	Feedlot within 500' 1000' <u>(N)</u>
Meeting date <u>11-16-17</u>	Lake Classification <u>RA</u>	Erosion Control Plan <u>(Y)</u> N
60 Day <u>12-15-17</u>	Lake <u>Jefferson</u>	Water courses Y <u>(N)</u>
RFPE <u>na</u>	FEMA Panel # <u>27079C0210D</u>	Bluff <u>(Y)</u> N
<input checked="" type="checkbox"/> Site Plan -survey	Flood Zone <u>X-outside</u>	Other _____
<input checked="" type="checkbox"/> Surveyor Certificate	<input type="checkbox"/> Full legal description	<input checked="" type="checkbox"/> Septic _____
<input type="checkbox"/> Floor plans/blue prints	<input type="checkbox"/> Access approval	COC NONC/Waiver <u>Design</u>
<input checked="" type="checkbox"/> Description of Request	<input type="checkbox"/> Blue Prints	<input checked="" type="checkbox"/> Fee \$ <u>646</u> ATF / SPEC MTG
<input type="checkbox"/> Application complete	<u>Michelle R. Muth</u> Planning & Zoning Department Signature	<u>10-16-17</u> Date
		<u>17394</u> Permit #

RECEIVED  
OCT 16 2017  
BY: \_\_\_\_\_

01-15-16



## Mettler, Michelle

---

**From:** Denny Miller <depami2002@yahoo.com>  
**Sent:** Monday, October 16, 2017 10:36 AM  
**To:** Mettler, Michelle  
**Subject:** Setback Variance Justification

Michelle,

My current septic system consists of a 1500 / 2 septic tank and a 666 pump tank on my own property and a drain field on leased land across a dead end township road.

The drain field is non-conforming due to one inch separation overlap.

The lease is past due and the land owner is unwilling to cooperate therefore I have no other options but to install drain field on my own property or convert to holding tank and pump as needed.

My property is small as are many early development lake lots but I have been told by multiple contractors that a system should fit.

The existing tanks will be retained but a variance may be needed because they are only six feet from a detached garage.

The new drain field will need a variance because it will be 14 ft from detached garage, 17 ft from attached garage, 24 ft from property line and 57 ft from lake high water line.

Therefore I am applying for a setback variance to install a new drain field to comply with septic system regulations.

Sincerely,

Dennis Miller

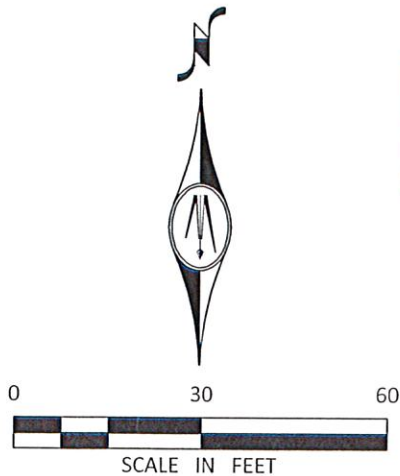
46179 Jefferson Lake Dr.  
Cleveland, MN 56017

507-931-6833

PID 01.600.0070

OWNER ADDRESS  
DENNIS P. MILLER  
46179 JEFFERSON LAKE DRIVE  
CLEVELAND, MN 56017

SITE ADDRESS  
46179 JEFFERSON LAKE DRIVE  
CLEVELAND, MN 56017



RECEIVED  
OCT 16 2017  
BY: *mlm*

LEGEND

- IRON PIPE MONUMENT SET
- ⊕ WELL
- ⊕ BENCH MARK

SURVEYOR'S CERTIFICATION

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

*Rory Jensen*  
Rory Jensen  
License Number 19789

10/13/2017  
Date

REVISED ORIGINAL SURVEY: 10-16-17

Horizontal Datum: 1996 Le Sueur County Coordinate System

CERTIFICATE OF SURVEY  
WASHINGTON TOWNSHIP, LE SUEUR COUNTY, MINNESOTA

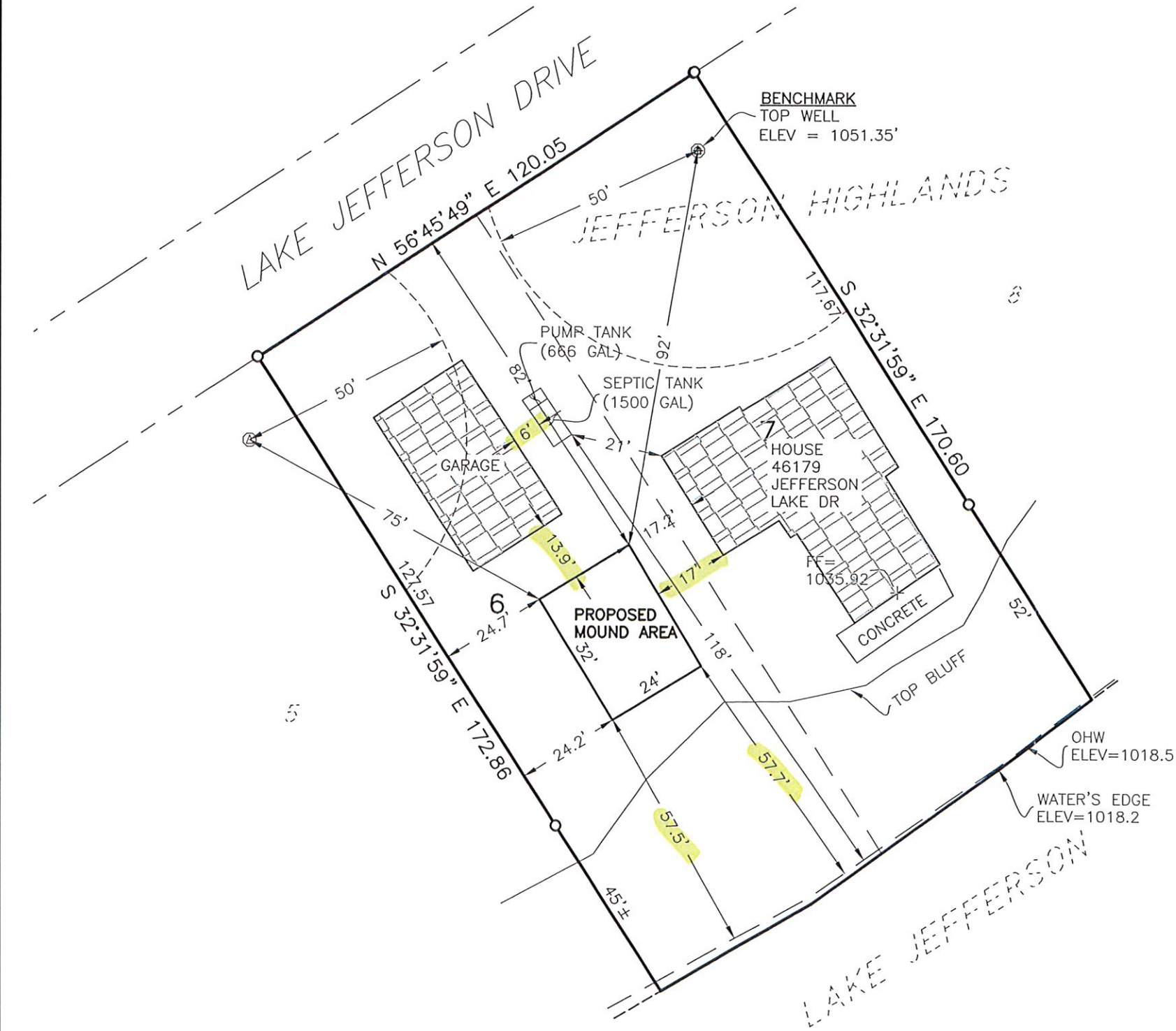


**BOLTON  
& MENK**

1960 PREMIER DRIVE  
MANKATO, MINNESOTA 56001  
(507) 625-4171

LOT 6 & 7, JEFFERSON HIGHLANDS, SECTION 2,  
TOWNSHIP 109 NORTH, RANGE 25 WEST,  
WASHINGTON TOWNSHIP, LE SUEUR COUNTY,  
MINNESOTA

FOR: DENNIS MILLER





## Surveyor Certification

I. **Applicant:**  
Name Dennis Miller

II. **Landowner:**  
Name DENNIS Miller  
Property Address 46179 JEFFERSON LAKE DRIVE  
City CLEVELAND State MN Zip 56017

III. **Parcel Information:**  
Parcel Number 01.600.0070

IV. **Site Plan - Shall be a Certificate of Survey to include, but not limited to:**

- North point
- Setbacks
- Property lines
- Road Right-Of-Way
- Lot Dimensions
- Lakes
- Rivers
- Wetlands
- Streams
- Ponds
- Well
- Septic System
- Proposed Structures
- Existing structures - *Within and adjacent to project area.*
- Location of trees to be removed - *Shoreland Districts*
- Access
- Easements
- Impervious Surface
  - Required for *Shoreland, Business, & Industrial Districts.*
  - Itemized current & proposed impervious surfaces to include total percentages.
  - Examples include but are not limited to: *rooftops, sidewalks, patios, decks, driveways, parking lots, storage areas and concrete, asphalt, or gravel roads, or tightly compacted soils.*

\*Site shall be physically staked, *then* surveyed.

\*Stakes shall be in place at the time of onsite visit/meeting, or the application will be tabled.

\*Stakes must remain in place until construction commences.

V. **Quantities and Submittal Formats:**

- a. One (1) reproducible copy of the request and all other supporting documents.
- b. Ten (10) copies must be submitted for documents larger than 11 x 17, documents in color, aerials or photographs.
- c. Electronic version of any supporting documents if available.
- d. Pre-application meeting is recommended prior to making application to ensure submittal completion.  
Appointment is necessary.
- e. Application must be made in person by the applicant and/or landowner prior to 12 P.M. on the date of application deadline. Appointment is necessary.
- f. All required information must be correct and submitted at the time of application, or the application will not be accepted.

VI. **Signatures:**

The proposed improvements have been physically staked onsite then surveyed on 10/12/17, to reflect an accurate account of current and proposed conditions of the property identified above.

*I hereby certify with my signature that all data contained herein as well as all supporting data are true and correct to the best of my knowledge.*

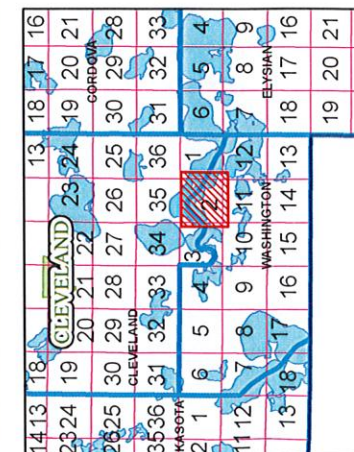
Roy Jama 10/13/17 19789  
Surveyor Signature Date Lic #

**OFFICE USE ONLY**

10-16-17 MLM  
Date Received Planning & Zoning Department Signature



NAME: Dennis Miller  
PID: 01.600.0070  
DATE: 11-6-17  
FIRM #: 27079C0270D  
F-Zone: X-Outside  
RFPE: na  
District: Recreational  
Residential



Map Disclaimer

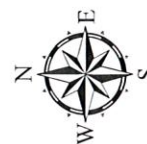
Reasonable efforts have been made by the Le Sueur County GIS Department to verify that these maps accurately interpret the source data used in their preparation; however, a degree of error is inherent in all maps, and these maps may contain omissions and errors in scale, resolution, rectification, positional accuracy, development methodology, interpretation of source data, and other circumstances. The maps are date specific and are intended for use only at the published scale.

These maps should not be used for navigational, engineering, legal, or any other site-specific use.

Coordinate System: NAD 1983 HARN Adj MN Le Sueur Feet

Photo dated April/May 2013

Created By: MRM



LE SUEUR COUNTY  
ENVIRONMENTAL SERVICES  
507-357-8538